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**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of :
Agoston et al. : DECISION GRANTING
Application No. 09/641,327 : PETITION
Filed: 18 August, 2000 :
Attorney Docket No. 05213-0730 :

This is a decision on the petition, filed on 12 December, 2000, requesting that the above-identified application, without drawings, be accorded a filing date of 18 August, 2000.

The application was filed on 18 August, 2000, without drawings.¹ Accordingly, on 6 October, 2000, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on 12 December, 2000, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented. Petitioners request that the application, without drawings, be accorded a filing date of 18 August, 2000.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).² A review of the record reveals that Claim 10 is a method claim. Therefore, the present

¹35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

²MPEP 601.01(f).

application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

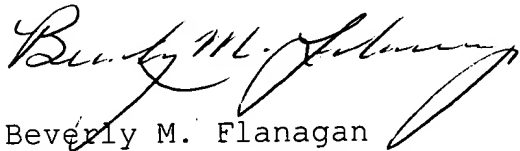
The one (1) sheet of drawing filed with the present application will not be processed or used for examination purposes, but will be retained in the application file with the present petition.

The petition is granted. The \$130.00 petition fee is unnecessary and will be credited to counsel's deposit account, No. 11-0855.

The "Notice of Incomplete Nonprovisional Application" mailed on 6 October, 2000, was sent in error and is hereby vacated.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 18 August, 2000, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at 703.308.6918.



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for Patent Examination Policy